

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of:)
FLICK) Examiner: C. YANG
)
Serial No. 10/043,077) Art Unit: 2612
Confirmation No. 6614)
Filing Date: JANUARY 9, 2002) Attorney Docket No. 58090
)
For: VEHICLE CONTROL SYSTEM FOR A)
VEHICLE DATA COMMUNICATIONS)
BUS AND HAVING VERIFICATION)
FEATURES)
)

REQUEST FOR REHEARING
UNDER 37 C.F.R. §41.52

Mail Stop Request For Rehearing
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Appeal of the Board of Patent Appeals and Interferences (Board) of March 11, 2008, Appellant respectfully requests a rehearing before the Board pursuant to 37 C.F.R. §41.52.

As a preliminary matter, Appellant submits new arguments in this Request for Rehearing under 37 C.F.R. §41.52(a)(2), which recites "[u]pon a showing of good cause, appellant may present a new argument based upon a recent relevant decision of either the Board or a Federal Court." Appellant notes that the Board cited case law that was decided subsequent to the filing of Appellant's Appeal Brief. See *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). Accordingly, Appellant has also cited new case law in support of Appellant's arguments. Based on the arguments presented below, Appellant requests the Board reconsider and withdraw its prior decision.

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I. THE BOARD MISAPPREHENDED AND OVERLOOKED A CLEAR TEACHING AWAY BETWEEN OGINO
ET AL. AND FLICK '571

The Board affirmed the Examiner's rejection of independent Claim 18 over Ogino et al. in view of Flick '571. Referring to FIG. 3, Ogino et al. discloses a vehicle security system comprising a car security unit 10 including a controller 17, a bus input/output (i/o) module 16 coupled to the controller, and a transceiver 12 also coupled to the controller. The system further includes a wireless transmitter 11 cooperating with the transceiver, and a bus line 6a coupled to the bus i/o module. The wireless transmitter further includes a display screen 11a for displaying reference numbers for sensors experiencing error faults. As discussed thoroughly in the Background of Invention section of this reference, this function of the system is to enable the user to easily and effectively ascertain which sensor is experiencing the error fault. (Col. 9, lines 6-12).

In another embodiment, the system of Ogino et al. discloses an approach to another problem also discussed heavily in the Background of Invention section. In particular, in vehicle security systems where the wireless transmitter further includes a toggle switch 11b for controlling a plurality of security systems in different vehicles, the user may struggle to correspond the subject vehicle to the correct selected vehicle with the wireless transmitter's toggle switch. In this embodiment, the display screen of the wireless transmitter displays the vehicle reference number of the corresponding

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vehicle selected via the toggle switch, thereby identifying the vehicle reference number associated with the switch position. (Col. 9, lines 33-42). Moreover, if a vehicle receives a transmission from the wireless transmitter that is authorized to access the vehicle system but is set to a incorrect toggle switch position, the vehicle security system transmits a reply that causes the display screen on the wireless transmitter to display the vehicle reference number associated with the subject vehicle. (Col. 10, lines 12-22).

The Board correctly recognizes that Ogino et al. fails to disclose communicating with the vehicle indicator via the data communications bus to cause an indication of whether at least one new uniquely coded transmitter has been learned, as recited in independent Claim 18. The Board looks to Flick '571 to supply this deficiency. Flick '571 discloses a building security system 10 comprising indicators 24 that can indicate the number of learned remote transmitters 50.

As detailed in the Background of Invention section of Flick '571, the disclosed building security system is an approach to the problem of an unauthorized user would-be thief secretly causing the security system to learn a new remote transmitter without the owner's knowledge. (Col. 1, lines 40-47).

The Board affirmed the Examiner's rationale in combining Ogino et al. and Flick '571, i.e. to "prevent[] unauthorized remote transmitters from being surreptitiously learned by the controller." The Board further stated that

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although "the objective of each reference needs to be considered in making a combination in an obviousness rejection, the objective, by itself is not determinative of the propriety of the combination." Decision on Appeal, 3/11/2008, page 7. The Board also characterized Appellant's arguments as "if a proposed modification does not match the stated objective of the reference, the modification cannot be supported by proper motivation." *Id.*

Appellant respectfully submits that the Board has misapprehended Appellant's prior argument. Indeed, Appellant submits that if one reference expressly addresses one problem, i.e. Ogino et al. addressing convenience of the user of a wireless transmitter for **vehicle security systems** in determining sensor faults and corresponding multiple controlled vehicles to their associated codes on the wireless transmitter, and that a second reference addresses an entirely different problem, i.e. Flick '571 addressing the problem of an unauthorized user would-be thief secretly causing the **home security system** to learn a new remote transmitter without the owner's knowledge, then the person of ordinary skill in the art would be taught away such a selective combination of the prior art.

Indeed, Appellant submits that the disparate approaches to different problems disclosed by Ogino et al. and Flick '571 are not pertinent and therefore non-obvious to be combined. See *In re Icon Health and Fitness*, 496 F.3d 1374, 1379 (Fed. Cir. 2007). The court went on to state:

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[a] reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." *In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992). In other words, "familiar items may have obvious uses beyond their primary purposes." *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742, 167 L. Ed. 2d 705 (2007).
Id. at 1379-80.

Appellant submits that the person of ordinary skill in the art would not "logically," when modifying a vehicle security system of Ogino et al., look to the home security system of Flick '571, which aims to address a non-pertinent problem in a security environment, i.e. commercial and residential building security systems, see Flick '571 Col. 1, lines 13-15, wholly different from that of a vehicle.

Hence for these reasons, Appellant submits that the Board's combination of Ogino et al. and Flick '571 is improper, and that independent Claim 18 is patentable over the prior art. Its dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

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II. THE BOARD MISAPPREHENDED AND OVERLOOKED A CLEAR TEACHING AWAY BETWEEN ANZAI ET AL. AND FLICK '460

The Board affirmed the Examiner's rejections of independent Claims 30 and 57 over Anzai et al. in view of Flick '460. Anzai et al. discloses a biometric authorization system for a vehicle that includes an enrollment mode. (Col. 2, lines 39-47). The system is capable of providing tiered levels of access to different users. The Board correctly recognizes that Anzai et al. fails to disclose communicating with the at least one vehicle device via the data communications bus, as recited in independent Claim 30, for example. The Board looks to Flick '460 to supply this critical deficiency of Anzai et al.

Flick '460 discloses a vehicle security system including a plurality of vehicle devices throughout the vehicle, a controller, a remote transmitter in communication with the controller, and a vehicle data communications bus for communications between the controller and the vehicle devices. (Col. 4, line 51 : col. 5, line 31). The Board contended that the person of ordinary skill in the art would combine Anzai et al. and Flick '460 to reduce: the amount of wiring, wiring problems, and complications that arise when troubleshooting an electrical problem. Citing Flick '460 patent at Col. 1, lines 65-67, col. 2, lines 1-3.

The security system of Anzai et al. discloses an approach to several problems detailed in column 2 of the reference. Indeed, Anzai et al. aims to address nine total

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objects, none of which deal with security system hardware architecture. Yet, the Board looks to the security system of Flick '460, which discloses an approach to providing "a vehicle security system that is readily adaptable for installing in a vehicle having a data communications bus." (Col. 3, lines 1-3). As discussed above, see *supra* Section I, Appellant respectfully submits that the person of ordinary skill in the art, when modifying the biometric security system of Anzai et al., would not logically commend his attention to the data communications bus of Flick '460.

Further, Appellant submits that the Board's stated motivation amounts to a conclusory statement of obviousness. The Supreme Court of the United States has deemed such conclusory statements of obviousness to be insufficient in stating a rationale to combine prior art references. See *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007), quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) ("Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.") (Emphasis added).

Accordingly, Appellant submits that independent Claims 30 and 57 are patentable over the prior art. Their dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

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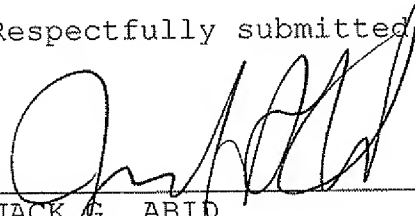
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III. CONCLUSION

In view of the arguments present above, Appellant respectfully submits that all of the claims are patentable over the prior art. Appellant, therefore, respectfully requests that the Board reconsider and reverse the earlier unfavorable decision of the Board.

Respectfully submitted,



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